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***Attorney for Plaintiff
Elaine Heinz***

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF ARIZONA**

ELAINE HEINZ,

Plaintiff,

VS.

**MIDLAND FUNDING, LLC AND
BLATT, HASENMILLER, LEIBSKER
& MOORE, LLC,**

Defendants.

Case No.:

**CIVIL COMPLAINT
AND
JURY TRIAL DEMAND**

CIVIL COMPLAINT AND JURY TRIAL DEMAND

Plaintiff, Elaine Heinz, on behalf of herself (hereinafter “Plaintiff”), by and through her undersigned attorney, alleges against Midland Funding, LLC (hereinafter “Midland”) and Blatt, Hasenmiller, Leibsker & Moore, LLC (hereinafter “BHLM”), (collectively “Defendants”) as follows:

PRELIMINARY STATEMENT

1. This is an action for damages arising from Defendant’s violations of 15 U.S.C. § 1692, *et seq.*, the Fair Debt Collection Practices Act (hereinafter “FDCPA”), which

1 prohibits debt collectors from engaging in abusive, deceptive and unfair practices,
2 brought by Elaine Heinz.

3 **JURISDICTION AND VENUE**

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5 2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 15
6 U.S.C. § 1692k (d).

7 3. Venue is proper in this district under 28 U.S.C § 1391(b).

8 **PARTIES**

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10 4. Plaintiff, Elaine Heinz, is a natural person, who at all relevant times has resided in
11 the city of Tucson, Pima County, State of Arizona, and is a “consumer” as defined by 15
12 U.S.C. § 1692a(3).

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14 5. Midland is a debt collection company and does business in the State of Arizona,
15 with its corporate mailing address as 2365 Northside Drive, Suite 300 San Diego, CA
16 92108, and is a “debt collector” as defined by 15 U.S.C § 1692a(6).

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18 6. BHLM is a law firm and does business in the State of Arizona, with its corporate
19 mailing address as 10 S. LaSalle St., Suite 2200, Chicago, IL 60603-1069, and is a “debt
20 collector” as defined by 15 U.S.C § 1692a(6).

21 **FACTUAL STATEMENT**

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23 7. At all times relevant to this litigation, both Defendants have engaged in a course of
24 collection activity aimed at the collection of an alleged debt due and owing from
25 Plaintiff.
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1 8. The debt upon which the Defendants sought collection originated with Synchrony
2 Bank (“Subject Debt”), a line of credit utilized for Plaintiff’s own personal and/or
3 household use, and thus is a “debt” as the term is defined by 15 U.S.C § 1692a(6).

4 9. The contract underlying the Subject Debt was executed in the state of Arizona,
5 where Plaintiff currently lives and has lived at all times relevant.

6 10. At some point in time not relevant to this litigation, Plaintiff fell behind in her
7 financial obligations on the Subject Debt. Plaintiff disputes the alleged amount due and
8 owing on the Subject Debt. Midland, through their counsel of record BHLM, eventually
9 filed suit for the recoupment of the Subject Debt (“State Action”).

10 11. The State Action against Plaintiff was filed in Cook County, Illinois, on or about
11 April 18, 2017. Plaintiff has never lived in Cook County, or anywhere in the state of
12 Illinois.

13 12. Plaintiff learned of the State Action through her son, who lives in Cook County,
14 Illinois and was served with the initiating documents at his home address.

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19 **COUNT I**
20 **VIOLATIONS OF THE FAIR DEBT COLLECTIONS PRACTICES ACT**
21 **15 U.S.C. §1692, et seq.**
22 *(As to both Defendants)*

23 13. Plaintiff repeats and realleges the allegations contained in paragraphs (1) through
24 (12) above and incorporates them with the same force and effect as if set forth
25 specifically herein.

26 14. Plaintiff was sued by Midland, through their counsel of record BHLM, on or about
27 April 17, 2017, for recoupment of the Subject Debt in the State Action.
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1 15. The State Action was filed in Cook County, Illinois.

2 16. The contract underlying the Subject Debt was executed in the state of Arizona.

3 All purchases which comprise the current, alleged balance due and owing on the Subject
4 Debt, were made in the state of Arizona.

5 17. Plaintiff disputes the alleged amount due and owing on the Subject Debt.

6 18. Plaintiff has never resided in the state of Illinois.

7 19. By virtue of filing the State Action in Cook County, Illinois, through their counsel
8 of record BHL M , Defendant Midland has violated 15 U.S.C. §1692i(a)(2)(A)&(B),
9 wherein it is prohibited for a debt collector to initiate an action in a judicial district in
10 which the consumer does not reside, or a judicial district other than the one in which the
11 contract was signed.
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13 20. Plaintiff does not reside in Cook County, Illinois; the contract was not signed in
14 Cook County, Illinois; the Defendants have initiated suit in Cook County, Illinois;
15 Plaintiff has been damaged and is entitled to relief.
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19 **JURY TRIAL DEMAND**

20 Plaintiff demands a trial by jury on all issues so triable.

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22 **RELIEF**

23 WHEREFORE, Plaintiff, Elaine Heinz, requests that this Court enter judgment
24 against the Defendants, and on behalf of Plaintiff for the following:

- 25 A. That an order be entered declaring the Defendants' actions, as described above,
26 both separately and distinctly, in violation of the FDCPA;
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- 1 B. That judgment be entered against the Defendants, both separately and distinctly,
2 for actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);
3 C. That judgment be entered against the Defendants, both separately and distinctly,
4 for statutory damages, pursuant to 15 U.S.C. § 1692k(a)(2)(A) and (B);
5 D. That the Court award costs and reasonable attorney's fees against Defendants,
6 both separately and distinctly, pursuant to 15 U.S.C. § 1692k(a)(3);
7 E. That the Court grant such other and further relief as may be just and proper.
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2 Dated: August 28, 2017
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5 Respectfully Submitted,

6 s/ John Prather /

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